

**BOARD OF ENVIRONMENTAL REVIEW**  
**AGENDA ITEM**  
**EXECUTIVE SUMMARY FOR ACTION ON RULE AMENDMENTS**

**Agenda # III.B.1.**

**Agenda Item Summary.** The Department requests approval of amendments to the rules and regulations governing the Opencut Mining Act to:

1. Address changes in the Opencut Mining Act passed by the State Legislature in 1999 and 2001.
2. Place the focus of the rules on the entire opencut operation process of mining, processing, and reclamation.
3. Incorporate changes resulting from years of administering the rules and laws under the Opencut Mining Program and opencut operator experience and suggestions.
4. Improve and clarify the Plan of Operation requirements, including the incorporation of basic performance standards.
5. Clarify the permit, amendment, and assignment review, approval, and disapproval procedures and criteria.
6. Adopt new rules that address permit compliance mandates and accountability standards.
7. Make changes throughout the text of the rules for consistency and clarity, and to eliminate duplicative and unnecessary text.
8. Establish a set of contemporary and accurate definitions for terms used in the field of opencut operations.
9. Formalize enforcement procedures that the Department is currently following for opencut mining violations.

**List Of Affected Rules.** ARM 17.24.201 through 17.24.215.

**Affected Parties Summary.** The proposed rule amendments will affect all operators and/or permit holders regulated by the Department under the Opencut Mining Program. The proposed amendments will affect adjacent property owners and the public by affording, or more specifically implementing, a degree of protection from certain opencut operation impacts. The proposed amendments will also allow the Department to more effectively administer and enforce a complete program.

**Scope Of Proposed Proceeding.** The Department requests initiation of rulemaking and appointment of a hearing officer for a public hearing.

**Background.** In addition to the reasons listed above, the proposed amendments to the rules will provide the Opencut Mining Program with the tools it needs to reasonably, consistently and effectively administer and enforce the Opencut Mining Act and rules across the state. They will also result in better mining, processing, and reclamation practices. If these rules are adopted, the Opencut Mining Program will implement them by updating its user-friendly Operator Packet that contains most of the information and materials operators need to comply with the Act and rules.

**Hearing Information.** The Department recommends that the Board appoint a hearing officer and conduct a public hearing to take comment on the proposed amendments.

**Board Options.** The Board may:

1. Initiate rulemaking, appoint a hearing officer, and schedule a hearing;
2. Determine that the amendment of rules is not appropriate and decline to initiate rulemaking;  
or
3. Direct the Department to modify the rulemaking and proceed.

**DEQ Recommendation.** The Department recommends initiation of rulemaking and appointment of a hearing officer for a public hearing.

**Enclosures.** Notice of public hearing on proposed amendments of ARM 17.24.201 through 17.24.215 pertaining to Opencut Mining Program requirements.